In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.30831-M of 2007

.....

Date of decision:15.5.2007

Varinder Singh alias Goldy and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

Present: Mr. Jatin Salwan, Advocate for the petitioners.

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S.S. Saron, J. (Oral)

This petition under Section 482 Cr.P.C. has been filed praying for quashing FIR No.15 dated 23.1.2006 (Annexure-P.1) registered at Police Station Kharar, District Mohali for the offences under Sections 307 and 34 IPC.

Jagjit Singh (respondent No.2) got lodged the afore-referred FIR alleging that during the celebration of the marriage of his paternal uncle's son on 21.1.2006 he was called out from the marriage party on the asking of Harjit Singh alias Ganga (petitioner No.2). When the complainant went outside petitioners No.1 and 3 were also present. Petitioner No.3 gave `Lalkara' and told petitioner No.1 that what was he looking for standing there. On this petitioner No.1 gave `Kirpan' blow on the person of the complainant which hit him on the right side of his head. Because of the injury blood started oozing out and complainant fell down.

Learned counsel for the petitioners submits that soon after the

occurrence on 7.3.2006, the complainant deposed an affidavit (Annexure-P.2) in which he stated that the petitioners are not the persons who were involved in the occurrence and their names have been mentioned in the FIR inadvertently. It is submitted that in view of the affidavit filed by the complainant this Court vide order dated 28.9.2006 (Annexure-P.6) granted bail to the petitioners. It is submitted that the trial in the case would result in acquittal and, therefore, no useful purpose would be served in proceeding with the trial.

After giving my thoughtful consideration to the matter it may appropriately be noticed that respondent No.2 specifically named the petitioners who had caused the injury and offence under Section 307 IPC stands registered against them in pursuance of FIR dated 23.1.2006 (Annexure-P.1). It is thereafter on 7.3.2006 that respondent No.2 deposed affidavit (Annexure-P.2) wherein it is stated that the persons named in the FIR are not involved in the occurrence and their names were mentioned inadvertently. In my view, this aspect would require consideration by the trial Court where the trial is pending. It would be at best a case where respondent No.2 has resiled from his earlier statement made to the Police. Therefore, in case respondent No.2 during the course of trial resiles from his statement he is likely to be declared hostile and cross-examined by the prosecution to elicit the truth. This procedure provided for by law cannot be circumvented and short-circuited by resorting to proceedings under Section 482 C.P.C. The conduct of trial and cross-examination of respondent No.2, if necessary, would be the domain of the trial Court.

Learned counsel for the petitioners then submitted that at least a direction be issued to the trial Court to expedite the trial as the matter is

being adjourned from time to time as there is no evidence. The said request of the petitioners is reasonable.

In the afore-noticed circumstances the criminal miscellaneous petition seeking quashing of the FIR (Annexure-P.1) is dismissed. However, the trial Court shall make every effort and endeavour to expedite the trial and complete the same as expeditiously as possible.

May 15, 2007. **(S.S. Saron)**
Judge

hsp